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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,429	09/12/2003	Michael F. Harris	HAR-001	4876

7590 03/18/2008  
Rodney L. Sparks  
4931 Lake Tree Lane  
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EXAMINER
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MITCHELL, TEENA KAY

ART UNIT	PAPER NUMBER
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3771

MAIL DATE	DELIVERY MODE
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03/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/660,429

Applicant(s)

HARRIS, MICHAEL F.

Examiner

Teena Mitchell

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

The affidavit under 37 CFR 1.132 filed 9/27/07 is sufficient to overcome the rejection of claim 1-18 based upon Harris (Pilot Study to Assess the Efficacy of Intermittent Hyperbaric Nitrogen Treatment of Acquired Immunodeficiency Syndrome) in view of Risley et.al. (7,198,045).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reillo et.al. (Journal of Association of Nurses in AIDS Jan-Feb 1996) in view of Risley et.al. (7,198,045).

Reillo discloses hyperbaric oxygenation for HIV treatment decreasing the viral load (which inherently would increase the CD4/CD8 lymphocytes (Abstract), it is obvious that one or more gases is used to treat the HIV in a hyperbaric chamber. The difference between Reillo and claim 1 is the selecting of one or more time periods for exposing the patient to the selected gas(es) and pressure. Risley in a hyperbaric chamber teaches time periods selected for patients in the

hyperbaric chamber (Col. 4, lines 48-57). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to select time periods for the user as taught by Risley. Also it would have been obvious to that no set time period or gas pressure for everyone would work the same, as different people have different needs, such as a younger person may need less or more time in treatment, an older person may require less time in treatment to receive the same effects as the younger person. A health care provider would take each patient and evaluate their needs to set up a treatment schedule for time and pressure in the hyperbaric chamber. The remaining steps would have been obvious because they would have resulted from the use of the hyperbaric chamber of Reillo/Risley.

Regarding claim 2, Reillo/Risley do not disclose the claimed one or more gases. It would have been an obvious design consideration to one of ordinary skill in the art at the time the invention was made to have one or more the gases nitrogen, surface air, an inert gas, nitrous oxide, or another anesthetic and wherein one or more except air make up 5% or more of the gases in the chamber because the gases are all known in the respiratory art and would have been based on individual user needs and problem being treated.

Regarding claim 3, Reillo does not specifically state wherein one or more pressures selected is greater than one atmosphere, however it would be inherent that the pressure would be greater than one atmosphere because the device is a hyperbaric chamber.

Regarding claims 4-6, note rejections of claim 1 above.

Regarding claim 7, Reillo does not disclose the step of creating a chart for the person with listing of times and gas based upon the patient's condition. One of ordinary skill in the art would consider the step obvious if not inherent, in order for medical person to note progress or the condition of the patient getting worse a chart would be made for each person based upon their needs to have time and gas treatment set up by the medical practitioner.

Regarding claim 8, Risley teaches a hyperbaric chamber large enough for more than one person (Col. 3, lines 60-67). Therefore it would have been obvious to one of ordinary skill in the art to have more than one person in the chamber as such chambers are well known in the art as taught by Risley.

Regarding claim 9, note rejection of claim 1 above.

Regarding claim 10, note claim 1 above. It would have been obvious to one of ordinary skill in the art to arrive at the percentage of gases in the chamber based upon how many patient's are in the chamber and their medical conditions requiring treatment.

Regarding claim 11, note rejection of claim 1 above.

Regarding claim 13, note rejection of claim 3 above.

Regarding claim 13, note rejection of claim 8 above.

Regarding claim 14, such step is inherent to one of ordinary skill in the art that a person must decompress based upon standard decompression tables because decompression is needed so the patient does not get ill from being in the hyperbaric chamber at a selected pressure for an extended period of time.

Regarding claims 15-18, note rejections of claims 1 and 10 above.

***Response to Arguments***

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teena Mitchell whose telephone number is (571) 272-4798. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 5:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number:  
10/660,429  
Art Unit: 3771

Page 6

Teena Mitchell  
Primary Examiner  
Art Unit 3771  
December 24, 2007

/Teena Mitchell/  
Primary Examiner, Art Unit 3771